

Date: March 15, 2012

To: Thomas J. Bonfield, City Manager

Through: Theodore L. Voorhees, Deputy City Manager

From: Rhonda B. Parker, Director, Parks and Recreation
Joel Reitzer, Director, General Services

Subject: An Ordinance Amending Section 38-21 of the City Code

Executive Summary

Section 38-21 of the City Code regulates the possession and consumption of alcoholic beverages in public buildings and parks. This agenda item is requesting that the City Council adopt an ordinance amending the City Code Section 38-21 to simplify the types of alcohol permitted at the various facilities and areas, expand approved areas at Durham Central Park, establish administrative regulations and to correct the name of the Durham Convention Center and its associated plaza.

Recommendation

The Administration recommends that City Council approve an amendment to City Ordinance Chapter 38, Section 21.

Background

Five items, described in detail below, comprise the recommended amendments to Section 38-21. These changes were drafted in coordination with the Department of Parks and Recreation (DPR), General Services, Durham Central Park, Inc. and Global Spectrum, who manages the Durham Convention Center. These changes streamline downtown event planning and processes.

1. Definitions – Staff requests that the definition of malt beverage and unfortified wine be deleted since the proposed updates to this ordinance only refers to alcoholic beverages and not these specific types. Staff requests the addition of the term “Public Function” and an update to the definition of a “Private Function” to more clearly define the application of the ordinance requirements for each type of function.
2. Alcohol in areas owned and operated by the City [Sec. 38-21 (c)] – Staff requests that this section be updated from “malt beverages and unfortified wine” to the simplified “alcoholic beverages”, and that this section be amended to read: “The consumption of alcoholic beverages shall be lawful, upon the securing of the necessary permits from the city and the North Carolina Alcoholic Beverage Control Commission, in the following facilities and areas owned or operated by the city.” Staff requests to add the Boat House in the Lake Michie Recreation Area, including it’s deck, and the Historic Parrish Street Forum to this listing. DPR staff also requests that Section (d) be eliminated and that the Spruce Pine Lodge in the Lake Michie Recreation Area, including its lawn, associated picnic area, and playfield be added to section (c). The

Durham Civic Center plaza needs to be renamed and combined with the Convention Center in section (f).

3. Obtain permits [Sec. 38-21 (d) and Sec. 38-21 (e)] – Staff requests that the section (d) be amended to read: “Any person desiring to provide alcoholic beverages for consumption at a private function in one of the facilities or areas listed in subsection (c) of this section shall obtain a permit from the city manager or the city manager’s designee, and shall abide by any and all rules or regulations approved by the city manager concerning such consumption.” Staff requests that this section (e) be added to read: “City Council approval shall be required for any public function where alcohol may be sold, served or available for consumption in one of the facilities or areas listed in subsection (c) of this section.” The intention of these updates is to further clarify the factors that require permission from the City Manager and the City Council.
4. Alcohol in areas which have been leased by the City to outside agencies [Sec. 38-31 (f)] – Staff requests that this section be amended to read: “The consumption of alcoholic beverages shall be lawful, upon the securing of the necessary permits from the North Carolina Alcoholic Beverage Control Commission, in the following facilities and areas which have been leased from the city by outside agencies or are managed by a third party on behalf of the City.” This list currently includes the property leased by the city to the Museum of Life and Science, the Durham Civic Center, the Durham Arts Council, the Carolina Theatre, the Farmers’ Market Pavilion, the Durham Athletic Park, and The Durham Bulls Athletic Park. Durham Central Park, Inc. has recently expanded their area of management to include the Sister Cities Grove and the “Grassy Meadow” on the east side of Foster Street. Staff requests that these areas be included in the listing for Durham Central Park. Staff requests that the name “Durham Civic Center” and the “Durham Civic Center Plaza” formerly of Section 38-21(c) be amended to “Durham Convention Center and Plaza”, which encompasses the building and exterior plaza. Staff also requests that the DPAC (Durham Performing Arts Center and its Plazas) be included in this section, thus eliminating Section (h).
5. Permit terms [Sec. 38-21 (g)] – Staff is requesting that this section be amended to read: “The following permit terms for alcohol usage shall apply: (1) Any person serving alcoholic beverages shall post on site at all times during which alcoholic beverages are consumed one or more persons who shall be responsible for ensuring that no alcoholic beverages are provided to underage or intoxicated persons; (2) Participants, guests and attendees of private and public functions where alcohol is served shall not be permitted to bring their own alcohol to an event; and (3) City facilities leased from or managed pursuant to a third party agreement shall be governed by those agreements if they address liability requirements for events where alcohol may be served. Any person desiring to serve alcoholic beverages shall maintain general liability insurance applicable to the serving of alcoholic beverages at the event and shall name the city as an additional insured on the policy with respect to claims arising out of the use of the property owned or operated by the city. A certificate evidencing such insurance shall be submitted to the city manager’s office or the manager’s designee prior to the holding of an event where alcoholic beverages are served. Insurance shall be at the rate (combined single limit for bodily injury and property damage liability) designated by the city’s risk manager. The city’s risk manager may vary or waive any requirements stated in this subsection, depending upon the nature of the event for which the permit is to be issued. Staff is requesting an update from the \$500,000 limit to more generic language of “at the designated rate” established by the city’s risk manager. The current required

rate by the Risk Manager is \$1 million per occurrence. Additional amendments in this section were expanding this section to both areas leased or managed on behalf of the city and to those owned and operated by the city. Finally, prohibiting “brown bagging” in all areas and facilities by guests and participants during events was also added in this section.

Alternatives

The Council could choose not to amend the existing ordinance. This alternative is not recommended because the changes update and streamline alcohol permitting at special events and corrects errors in the ordinance.

Financial Impact

This ordinance amendment will not increase any costs to the City. The proposed ordinance revisions may result in increased revenues at city owned facilities, through additional event rentals and event sponsorships.

SDBE Summary

Not applicable.